

UNITED STATES DISTRICT COURT
WESTERN DISTRICT OF TENNESSEE
WESTERN DIVISION

SCOTT TURNAGE, CORTEZ D. BROWN,)
DEONTAE TATE, JEREMY S. MELTON,)
ISSACCA POWELL, KEITH BURGESS,)
TRAVIS BOYD, TERRENCE DRAIN, and)
KIMBERLY ALLEN on behalf of themselves and)
all similarly situated persons,)

Plaintiffs,)

v.)

BILL OLDHAM, in his individual capacity as)
former Sheriff of Shelby County, Tennessee;)
FLOYD BONNER, JR., in his official capacity as)
Sheriff of Shelby County, Tennessee; ROBERT)
MOORE, in his individual capacity as former Jail)
Director of Shelby County, Tennessee; KIRK)
FIELDS, in his official capacity as Jail Director of)
Shelby County, Tennessee; CHARLENE)
MCGHEE, in her individual capacity as former)
Assistant Chief of Jail Security of Shelby County,)
Tennessee; REGINALD HUBABARD, in his)
official capacity as Assistant Chief of Jail Security)
of Shelby County, Tennessee; DEBRA)
HAMMONS, in her individual capacity as former)
Assistant Chief of Jail Programs of Shelby County,)
Tennessee; TIFFANY WARD in her official)
capacity as Assistant Chief of Jail Programs of)
Shelby County, Tennessee; SHELBY COUNTY,)
TENNESSEE, a Tennessee municipality; TYLER)
TECHNOLOGIES, INC., a foreign corporation;)
GLOBAL TEL*LINK CORPORATION, a foreign)
corporation; SOFTWARE AG USA, INC., a)
foreign corporation; and SIERRA-CEDAR, INC.,)
a foreign corporation,)

Defendants.)

No. 2:16-cv-02907-SHM-tmp

DEFENDANT GLOBAL TEL*LINK CORPORATION'S MOTION TO DISMISS
PLAINTIFFS' FIFTH AMENDED COMPLAINT FOR FAILURE TO STATE A CLAIM
ON WHICH RELIEF CAN BE GRANTED

Defendant Global Tel*Link Corporation (“GTL”) respectfully moves to dismiss Plaintiffs’ Fifth Amended Complaint (the “Complaint”) for failure to state a claim pursuant to Federal Rule of Civil Procedure 12(b)(6). In support of this Motion, GTL submits an accompanying memorandum of law, which GTL incorporates by reference, and states as follow:

1. On November 17, 2016, Plaintiffs filed their original Complaint in this action. *See* R.1 (Original Compl.). GTL was not named as a defendant in the original Complaint. *See id.*

2. On November 28, 2018, co-defendant Tyler Technologies, Inc. (“Tyler”) filed its Answer to Plaintiffs’ Third Amended Complaint raising the doctrine of comparative fault as an affirmative defense and naming GTL, among other parties, as a party whose “negligence, acts, or omissions . . . should be considered for purposes of comparative fault in connection with the allegations against Tyler.” R.122 (Tyler’s Answer to Third Am. Compl.) PageID# 1293.

3. On January 18, 2019, Plaintiffs filed a Fourth Amended Complaint adding GTL, Software AG Cloud Americas, Inc., and Sierra-Cedar, Inc. as additional defendants. *See* R.138 (Fourth Am. Compl.).

4. On February 26, 2019, Plaintiffs filed the current Complaint to correct the name of one of GTL’s co-defendants, Software AG Cloud Americas, Inc. *See* R.167 (Mot. to Amend Fourth Am. Class Action Compl.) PageID# 1623. *See also* R.170 (Compl.).¹

5. Plaintiffs state that GTL was added as a defendant “[o]n information and belief, and on the basis of the allegations contained in Defendant Tyler Tech’s Twelfth Affirmative Defense.” Compl. PageID# 1696 ¶ 63.

¹ The allegations pertaining to GTL in the current Complaint are unchanged from the Fourth Amended Complaint.

6. Plaintiffs bring only one claim against GTL, for negligence. *See* Compl. at 1724 ¶¶ 153–56.

7. An essential element of a cause of action for negligence is cause in fact. *See McCall v. Wilder*, 913 S.W.2d 150, 153 (Tenn. 1995). Conduct is a “cause in fact” of an injury where “the plaintiff’s injury would have happened ‘but for’ the defendants’ act.” *Hale v. Ostrow*, 166 S.W.3d 713, 718 (Tenn. 2005).

8. Plaintiffs have failed to allege a causal connection between their alleged injuries and GTL’s alleged negligence. As a result, Plaintiffs have failed to state a claim for negligence against GTL and it should be dismissed.

For the reasons set forth above, and in the corresponding Memorandum of Law, GTL respectfully requests that the Court grant this Motion and dismiss the claim asserted against GTL with prejudice. GTL further requests that the Court grant GTL such other and further relief as this Court deems just and proper.

Respectfully submitted,

s/ R. Brandon Bundren

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CERTIFICATE OF SERVICE

I certify that on the 12th day of March, 2019, I electronically filed a true and correct copy of **Defendant Global Tel*Link Corporation's Motion to Dismiss Plaintiffs' Fifth Amended Complaint for Failure to State a Claim on Which Relief Can Be Granted** with the U.S. District Court for the Western District of Tennessee using the Court's Electronic Case Filing System, which will send notice of this filing to counsel of record as follows:

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